

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

PATSY'S BRAND, INC.,

X Plaintiff,

v.

I.O.B. REALTY, INC., PATSY'S INC., FRANK
BRIJA, JOHN BRECEVICH, and NICK
TSOULOS,

Defendants.

X

KIMBA M. WOOD, United States District Judge:

Plaintiffs have moved on an emergency basis to quash subpoenas directed to non-party AT&T. (ECF No. 286.) The subpoenas command AT&T to produce records associated with the cellphone of Adem Brija, Defendant Frank Brija's son, on April 21, 2020, and to provide in-person deposition testimony of an AT&T representative in West Palm Beach, Florida, on April 21, 2020.

Presently, this matter is paused mid-hearing in a post-judgment contempt posture, and only limited discovery has been permitted. The period for submitting that limited discovery is closed. Adem Brija is not a witness in the ongoing hearing and, accordingly, Defendants have not submitted, nor at any point sought leave to submit, direct testimony, in the form of an affidavit, from Adem Brija. But for the ongoing global pandemic, the Court would have received all evidence in this matter by March 20, 2020.

No later than 3:00 p.m. today, Defendants shall respond to Plaintiffs' motion to quash the non-party subpoenas. Defendants' response, not to exceed three pages, shall include a discussion of: 1) the good cause, if any, for Defendants' failure to submit direct testimony of Adem Brija; 2) the potential admissibility of the subpoenaed evidence in light of that failure; 3) whether the

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99-CV-10175 (KMW)

ORDER

subpoenaed evidence, allegedly probative of telephone conversations between Defendants and their former trademark counsel, Rebecca Stempien Coyle, will be rendered duplicative or irrelevant upon the anticipated testimony of Rebecca Stempien Coyle; 4) the burdens associated with subpoena compliance and in-person deposition testimony in the midst of the present public health crisis; and 5) Plaintiffs' standing to quash the subpoenas. Plaintiffs may submit a reply, not to exceed two pages, by 6:00 p.m. on April 19, 2020.

Dated: New York, New York
April 18, 2020

/s/ Kimba M. Wood
KIMBA M. WOOD
United States District Judge